

1960

## c 85 Custody of Documents Act

Ontario

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## CHAPTER 85

## The Custody of Documents Act

1. In this Act, "document" includes whatever is included in the word "instrument" as defined by *The Registry Act*, and also any certificate, affidavit, statutory declaration, or other proof as to the birth, baptism, marriage, divorce, death, burial, descendants, or pedigree of any person, or as to the existence or non-existence, happening or non-happening of any fact, event or occurrence upon which the title to land may depend, and notices of sale, or other notices necessary to the exercise of any power of sale or appointment or other power relating to land. R.S.O. 1950, c. 85, s. 1.

Interpre-  
tation  
R.S.O. 1960,  
c. 348

2. Any person having a document, forming or being a title deed or evidence or muniment of title to land in Ontario, may deposit it for safe custody in the office of the registrar of any registry division in which the document or a duplicate or copy or memorial or certificate thereof has been registered, or, where it does not appear by an endorsement thereon that it or a duplicate or copy or memorial or certificate thereof has been registered, the document may be so deposited in the office of the registrar of any registry division in which any land to which it relates is situate. R.S.O. 1950, c. 85, s. 2.

Deposit  
of title  
deeds, etc.

3. Upon every such deposit the person making the deposit shall deliver to the registrar a requisition in duplicate (Form 1), which may include any number of documents, and the registrar shall sign a receipt upon one of the duplicates for the documents therein mentioned, and shall deliver the receipt to the person making the deposit. R.S.O. 1950, c. 85, s. 3.

Requisition  
to be filed  
and receipt  
given

4.—(1) Upon receiving the requisition and the documents therein mentioned, the registrar shall enter every document in consecutive order in a book (Form 2) to be called the "Deposit Index", and shall therein number such documents consecutively, and shall endorse on each document the word "deposited", with the date of deposit and the number of the entry thereof in the deposit index, and shall file it in consecutive order according to its number, and shall also endorse on the requisition the numbers so placed on the documents therein mentioned, and shall file all the requisitions in consecutive order according to their numbers.

Each docu-  
ment to be  
numbered  
and entered  
in deposit  
index and  
filed

Names to be  
entered in  
alphabetical  
index

(2) The registrar shall also enter in an alphabetical index, to be called the "Alphabetical Deposit Index", the number of the document in the deposit index, and the name of every party to the document, or to the action, suit or proceeding to which the document relates, or, if the document is a certificate or an affidavit or a statutory declaration or other proof as to the birth, baptism, marriage, divorce, death or burial of any person, the name of such person.

Entry  
opposite  
registered  
instruments

(3) Where it appears by a certificate of registration endorsed on the document that it or a duplicate or a copy or memorial or certificate thereof is registered in his registry office, the registrar shall also enter in the margin of every registry book wherein it is registered opposite the entry thereof the words "See deposit index No. . . . ., 19. . . .", referring to the number of the document in the deposit index and the date of the deposit.

Entry on  
abstract  
index

(4) Where a deposit refers to a lot or parcel of land, the registrar shall also enter in red ink on the abstract index against each such lot or parcel the words "See Deposit No. . . .". R.S.O. 1950, c. 85, s. 4.

Documents  
to be copied

(5) The registrar shall copy in full in a proper registry book every document deposited under this Act. 1952, c. 16, s. 1.

Notice to be  
sent to other  
registry  
offices

5.—(1) Where it appears by a certificate of registration endorsed on the document that it is registered in any other registry division, the registrar with whom it is deposited shall, within ten days after the deposit, send to such other registrar a notice thereof in duplicate (Form 3).

Fees to  
other  
registrars

(2) The registrar receiving the notice is entitled to a fee of 20 cents for every document in respect of which he is required to make an entry.

Entry of  
notice

(3) On receipt of the notice, the registrar receiving it shall enter in the margin of every registry book wherein the document appears to have been registered, opposite the entry thereof, the words "See deposit index in. . . . . registry office, No. . . . ., 19. . . .", referring to the registry office from which the notice was received, and the number and date of the deposit therein, and he shall forthwith send an acknowledgment of the receipt of the notice written upon one of the duplicate notices.

Repeating  
notice until  
acknow-  
ledged

(4) If such an acknowledgment is not received within fourteen days from the sending of the notice, the registrar sending

the notice shall send another like notice and shall repeat the same every fourteen days until the acknowledgment is received.

(5) Every such notice and acknowledgment shall be sent by registered mail, and a sufficient sum to pay the registrar's fees and the postage shall be sent with the notice. Transmission by registered mail

(6) All notices received from other registrars shall be filed by the registrar receiving them in the order in which they are received, and all such acknowledgments shall be filed by the registrar receiving them in the order of their receipt. Order in which notices to be filed  
R.S.O. 1950, c. 85, s. 5.

6. The registrar with whom the deposit is made is entitled to the following fees to be paid at the time of the deposit by the person making the deposit: Registrar's fees

On every requisition.....	\$1.00
On every document deposited.....	.10
For every notice necessary to be sent to other registrars (not more than one notice to any one registrar to be charged for).....	.25
Necessary postage on the notices and acknowledgments. A sum sufficient to pay the fees under subsection 2 of section 5.	
For entering upon the abstract index for each lot in excess of four lots.....	.10
For copying document, for each folio.....	.15

1952, c. 16, s. 2.

7.—(1) A receipt for payment of money on a registered instrument may be deposited in the registry office in which the instrument is registered, but it is not necessary to deliver any requisition with the receipt or to pay any fee for depositing the receipt or the entries in respect thereof, except the sum of 20 cents. Deposit of receipts

(2) The registrar shall receive and file in consecutive numerical order all receipts so deposited, and shall endorse thereon the number, the date of deposit, and the amount mentioned in the receipt, and shall write in the margin of the registry book wherein the instrument to which the receipt relates has been registered the words "See receipt No. ....". Registrar to receive and enter  
R.S.O. 1950, c. 85, s. 7.

8. Any person is entitled to inspect and make or obtain copies of, or extracts from, any document deposited under this Act in like manner as in the case of instruments registered under *The Registry Act*, and the registrar is entitled to the same fees in respect thereof as in the case of registered instruments. Deposited documents open to inspection  
R.S.O. 1960, c. 348  
R.S.O. 1950, c. 85, s. 8.

Deposit not registration and not to affect document as evidence R.S.O. 1960, c. 348

**9.** The deposit of a document under this Act shall not be deemed a registration thereof within the meaning of *The Registry Act* nor shall the admissibility or value of any document as evidence be affected by the deposit. R.S.O. 1950, c. 85, s. 9.

Deposit relieves from liability

**10.** The deposit of a document under this Act shall, while the document continues so deposited, be deemed a sufficient compliance with, and fulfilment of, any covenant or agreement entered into by any person to produce or allow the inspection of, or the making of, any copy of or extract from the document, and absolves any person liable for the production or custody thereof from any further liability in respect of such custody or production. R.S.O. 1950, c. 85, s. 10.

Expenses of executors, etc.

**11.** An executor, administrator or trustee may reimburse himself out of the estate for any expense that he incurred in or about depositing any document that came into his possession or control as such executor, administrator or trustee. R.S.O. 1950, c. 85, s. 12.

Registrar to keep safely

**12.** The registrar with whom a document is so deposited shall keep it safely in his office in like manner and with the same care as the instruments registered in his office, and he and his sureties are responsible in respect thereof in like manner as, in respect of instruments registered under *The Registry Act*, and the registrar shall not part with the possession of any such document except in accordance with the order of a court or a judge as provided in section 13. R.S.O. 1950, c. 85, s. 11.

Application to remove from custody

**13.**—(1) At any time after the deposit of a document any person may apply to the Supreme Court or to the county or district court of the county or district in which the deposit is made, or to a judge of either of such courts, for the delivery of the document to such person, and the court or judge may direct that it be delivered by the registrar to the applicant, or to a person named by the court or judge, upon being satisfied that the applicant would, but for the deposit, be solely entitled to the possession of the document, and that the deposit thereof was made without his consent, or the consent of a person entitled at the time of the deposit to an interest therein, and, where the document relates to other land than that in which the applicant is interested, that there are reasonable grounds for removing the document from the custody of the registrar.

Notice of application

(2) Before making the order, the court or judge may require such notice of the application, by advertisement or otherwise,

to be given to the person by whom the deposit was made, or to any other person, as to the court or judge seems just.

(3) The order may direct that all or any part of the costs <sup>Costs</sup> of the application, or of opposing it, or in relation to it, be paid by the person by whom the deposit was made, or by the person by whom the application is made, or by any person to whom notice of the application has been given, or the court or judge may make such other order in respect of the costs of the applicant, and of the persons who have been notified, or who oppose the application, as seems just. R.S.O. 1950, c. 85, s. 13.

(4) Upon the delivery to the registrar of the order or a <sup>Delivery</sup> duplicate thereof within six months after the date thereof, <sup>under order</sup> and upon payment to him of the sum of 50 cents, he shall deliver to the person mentioned therein the documents therein directed to be given to him, taking therefor his receipt or the receipt of his authorized agent.

(5) The registrar shall thereupon enter in the deposit <sup>Registration</sup> index, opposite the entry of the document, the date of such <sup>of order</sup> delivery, and the name of the person to whom delivered, the court or judge by whom the order was made, and the date of the order, and shall file the order among the requisitions for deposit in the order of the date of its receipt. R.S.O. 1950, c. 85, s. 14.

## FORM 1

(Section 3)

## REQUISITION

To the Registrar of the Registry Division of.....

I (or we) hereby deposit with you, pursuant to *The Custody of Documents Act*, the following documents:

Description of document	Names of all parties	Any other particulars or subject of certificate, affidavit, etc.	Land in this registry division to which documents relate	Particulars of registration of registered instruments			
				Registry division	Date	No.	Township, city, town, etc.

Dated.....

Signed in presence of me, to whom the depositor and his residence and occupation are well known. } C. D.  
 A.B. } *Residence, giving Lot, Concession or House No. and Street*  
 (Occupation)

The documents above mentioned, with a duplicate of the above requisition, are this day received by me.

Dated.....

E. F.,  
Registrar for.....

R.S.O. 1950, c. 85, Form 1.

## FORM 2

(Section 4 (1))

## DEPOSIT INDEX

Deposit No.	Description of document	Parties	Land in this registry division mentioned	Any other particulars or subject of certificates, affidavits, etc.	Particulars of registration certificate endorsed	Date of deposit	By whom deposited

R.S.O. 1950, c. 85, Form 2.

## FORM 3

(Section 5 (1) )

## NOTICE OF DEPOSIT

To the Registrar of the Registry Division of .....

The following documents, which appear to be registered in your registry office, have been deposited in this registry office under *The Custody of Documents Act*.

Deposit Index No.	Date of deposit	Description of document	Parties	Particulars of registration in your registry division		
				Township, city, town, etc.	Date of registration	Registration No.
2146	8th Aug., 19...	Mortgage	John Smith to Wm. Jones			

You are required to enter such deposit, and to acknowledge receipt hereof, under above Act. I enclose ..... cents for your fees and ..... cents for postage on acknowledgment.

Dated.....

Registrar for.....

## ACKNOWLEDGMENT TO BE PUT ON DUPLICATE NOTICE

The duplicate of above notice of deposit of (*three*) documents received at the registry office for ..... this ..... day of ....., 19...., and entry of such deposit has been made in accordance with *The Custody of Documents Act*.

Registrar

R.S.O. 1950, c. 85, Form 3.



